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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/040,575	11/01/2001	Antonio Carlos Ribeiro Carvalho	J&J-2045	2649
27777	7590	02/07/2006	EXAMINER	
PHILIP S. JOHNSON JOHNSON & JOHNSON ONE JOHNSON & JOHNSON PLAZA NEW BRUNSWICK, NJ 08933-7003			ANDERSON, CATHARINE L	
			ART UNIT	PAPER NUMBER
			3761	

DATE MAILED: 02/07/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 10/040,575	<b>Applicant(s)</b> CARVALHO ET AL.	
	<b>Examiner</b> C. Lynne Anderson	<b>Art Unit</b> 3761	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 14 November 2005.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 7-11 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-11 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All    b) ☐ Some \* c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |   |   |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)                        | 4) <input type="checkbox"/> Interview Summary (PTO-413)                     |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)    | Paper No(s)/Mail Date. _____  |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____   | 6) <input type="checkbox"/> Other: _____                                    |

## **DETAILED ACTION**

### ***Response to Arguments***

Applicant's arguments filed 14 November 2005 have been fully considered but they are not persuasive.

In response to the applicant's argument that Molas fails to disclose the absorbent core being continuously tapered from the second end towards the first end, it is noted that the absorbent core 3 of Molas is tapered, as shown in figure 2. The absorbent core 3 is separate from the side areas 4, 5 (see paragraph [0033]) and therefore the absorbent core 3 is continuously tapered while the overall shape of the article, including the side areas 4, 5, is an hourglass.

In response to the applicant's argument that Molas fails to disclose the barrier and cover extending beyond the absorbent core, it is noted that the barrier and cover of Molas extend beyond the absorbent core 3 to envelope the side areas 4, 5.

In response to the applicant's argument that Molas fails to disclose each preferential bending axis being defined by a respective edge of the absorbent core, it is noted that Molas shows in figures 1 and 2 the bending axes 2 being defined by the edges of the absorbent core 3. The absorbent core 3 is separated from the side areas 4, 5 by embossing 2 (see paragraph [0033]), and therefore the bending axes formed by embossing 2 are defined by the respective edges of the absorbent core 3.

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

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(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-5 and 7-11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Molas (US 2002/0077618 A1) in view of Sturino (5,713,886).

Molas discloses all aspects of the claimed invention with the exception of a flap extending outwardly from each side edge. Molas discloses a sanitary napkin, as shown in figure 1, comprising a central absorbent pad having a liquid pervious cover layer, a liquid impervious barrier layer, and an absorbent core, as described on page 2, paragraph 0022. The absorbent core 3 is continuously tapered from the second end to the first end, as shown in figure 2, and the barrier and cover extend beyond the core 3 to cover side margins 4 and 5. The central absorbent pad further comprises two bending lines 2 converging toward the longitudinal center line, the bending lines 2 being defined by the edges of the core 3, as shown in figure 2. A pair of side margins 4 and 5 are adjacent the bending lines 2 and adapted to fold along the lines. The napkin has a first, unfolded configuration for use in brief style undergarments, and a second, folded configuration for use in thong style undergarments, as described on page 3, paragraph 0033.

Sturino teaches the use of side flaps placed towards the front of a tapered sanitary napkin designed to be used with thong style undergarments, as shown in figure 1. The side flaps prevent leakage and improve the security of the attachment of the napkin to a garment. It would therefore be obvious to one of ordinary skill in the art at

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the time of invention to provide the napkin of Molas with the side flaps of Sturino to prevent leakage and improve attachment.

With respect to claims 2 and 3, the bending lines 2 extend from the second distal end at the lateral centerline to the first distal end, as shown in figure 1.

With respect to claims 4, 5, 8, and 9, Molas remains silent as to the dimensions of the sanitary napkin. However, it would have been obvious to one of ordinary skill in the art at the time of invention to make the first distal end between 15 and 20 mm and the lateral dimension between 10 and 20 mm, since it has been held that where the general conditions of the claim are disclosed in the prior art, finding the optimum or workable ranges involves only routine skill in the art. *In re Allen*, 105 USPQ 233.

With respect to claim 7, the side margins 4 and 5 has an adhesive attachment on the garment-facings side of the barrier layer, as described on page 3, paragraph 0037.

With respect to claim 10, the side margins 4 and 5 of the central absorbent pad are folded along the bending lines 2.

With respect to claim 11, the first configuration is an hourglass shape, as shown in figure 1, and when folded, the second configuration is a tapered shape.

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not

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mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to C. Lynne Anderson whose telephone number is (571) 272-4932. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tanya Zalukaeva can be reached on (571) 272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

WA  
cla

February 1, 2006

TATYANA ZALUKAEVA  
SUPERVISORY PRIMARY EXAMINER

